

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

Appeal of William Shope

The question for determination is whether appellant has established any error in respondent's proposed assessments of personal income tax and penalties.

Appellant did not file California personal income tax returns for the years in issue. Respondent obtained information indicating that appellant had gross income in the amounts of \$18,491.00, \$23,841.00, and \$22,362.00 for the years 1974, 1976, and 1977, respectively. Based upon this information, respondent demanded that appellant file returns for the years in issue. Appellant refused to file and respondent issued the proposed assessments which are the subject of this appeal. Included in the proposed assessments for each year are penalties for failure to file a return, failure to file a return after notice and demand, negligence, and failure to pay estimated tax.

Respondent's determinations of additional tax and penalties are presumptively correct, and appellant has the burden of proving them *erroneus*. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) No such proof has been presented. Appellant's sole argument, which is an attack on the validity of Federal Reserve notes has been rejected as frivolous in prior cases (see Appeal of Iris E. Clark, Cal. St. Bd. of Equal., March 8, 1976; Appeal of Donald H. Lichtle, Cal. St. Bd. of Equal., Oct. 6, 1976; Appeal of Armen B. Condo, Cal. St. Bd. of Equal., July 26, 1977), and is obviously insufficient to overturn respondent's assessments.

It appears from the record that appellant has withholding credits of \$77.73 and \$94.37 for 1974 and 1976, respectively. There is also a \$13.00 credit due for overpayment of State Disability Insurance in 1976. Respondent has agreed to make appropriate adjustments to the tax due. Additionally, appropriate adjustments to reflect the amount of withholding will also have to be made in the penalties imposed for failure to file a timely return and for failure to pay estimated tax.

For these reasons, respondent's action, as modified, must be sustained.

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## Appeal of William Shupe

## ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of William Shope against proposed assessments of personal income tax and penalties in the total amounts of \$1,594.25, \$2,566.79, and \$2,339.64 for the years 1974, 1976, and 1977, respectively, be and the same is hereby modified in that credits shall be allowed against the proposed assessments of tax to reflect the amount of California personal income tax withheld in 1974 and 1976 and the overpayment of State Disability Insurance in 1976, and the amount of the penalties imposed for failure to file a return and for failure to pay estimated tax shall be reduced to reflect such withholding. In all other respects, the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 29th day  
Of September, 1981, by the State Board of Equalization,  
with Board Members Mr. **Dronenburg**, Mr. Reilly and  
Mr. Nevins present.

Ernest J. Dronenburg, Jr. , Chairman

George R. Reilly, Member

Richard Nevins, Member

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